

1 THE HONORABLE RICARDO S. MARTINEZ  
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UNITED STATE DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 ANNA F. DANIELI,

11 Plaintiff,

12 v.

13 KING COUNTY, a municipal corporation;  
14 CITY OF BELLEVUE, a municipal  
corporation; KING COUNTY HEARING  
EXAMINER; REGIONAL ANIMAL SERVICES  
OF KING COUNTY; GENE EDWARD  
MUELLER, and marital community; TIM  
ANDERSON, and marital community; and  
16 DOES 1-10,  
17

Defendants.

Case No.: 3:21-CV-05163-RSM

PLAINTIFF'S MOTION FOR RELIEF FROM  
DEADLINE AND TO CONSOLIDATE  
MOTIONS

NOTE ON MOTION CALENDAR: Friday,  
April 16, 2021 Without Oral Argument

21 I. RELIEF REQUESTED

22 PLAINTIFF, ANNA F. DANIELI ("Danieli"), pursuant to LCR 7(j) and LCR 7 (k), hereby  
23 requests that the District Court set over the King County Defendants<sup>1</sup> Motion to

24 \_\_\_\_\_  
25 <sup>1</sup> Attorney, Amy Montgomery, filed a Notice of Removal on behalf of Defendants, King County, Regional  
26 Animal Service of King County (RASKC), Gene Edward Mueller, and Tim Anderson, together the ("King

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1 Remand (Dkt #13) until Friday, April 30, 2021, and consolidate this motion with  
2 Danieli's Motion for Sanctions Pursuant to FRCP 11, to be heard on Friday, April 30,  
3 2021.

4 Danieli will be filing her Response to the King County Defendants' Motion to  
5 Remand on Monday, April 12, 2021, in which Danieli will request the Court to impose  
6 on the King County Defendants attorney's fees and costs. Danieli will also be filing  
7 her Motion for Sanctions Pursuant to FCRP 11 on the same day, with a hearing set  
8 on April 30, 2021 pursuant to LCR 7(d)(3). Danieli will be requesting oral argument on  
9 her Motion for Sanctions.

10           **II. RELEVANT FACTUAL AND PROCEDURAL BACKGROUND IN SUPPORT  
11 OF MOTION FOR RELIEF FROM DEADLINE AND TO CONSOLIDATE**

12 On March 5, 2021, the King County Defendants filed a Notice of Removal with the  
13 United States District Court for the Western District of Washington, and also in the  
14 Pierce County Superior Court. For reasons that will be set out more fully in Plaintiff's  
15 Response to the Motion to Remand and in her Motion for Sanctions, the King County  
16 Defendants' filing with the District Court was made without either proper legal basis  
17 or good cause.

18 After making its initial filing of a Notice of Removal, the King County Defendants  
19 continued to file additional documents with the District Court, including

20 MOTION for Extension of Time to file responsive pleading to Plaintiff's Second  
21 Amended Complaint (Dkt #5), to which Plaintiff was required to respond. On March  
22 15, 2021, Plaintiff's counsel sent the Defendants' counsel a written notice that the  
23 Plaintiff intends to seek sanctions against the Defendants on account of

24  
25 \_\_\_\_\_  
26 County Defendants') Based on representations made by Attorney, Amy Montgomery in her filings in  
27 District Court, the Notice of Removal was made with the consent of the other Defendants.

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30 CONSOLIDATE MOTIONS  
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1 misrepresentations contained in the filings along with the filing being legally  
 2 baseless. The notice provided to all of the Defendants' counsel, included a proposed  
 3 Motion for Sanctions pursuant to FRCP 11, in compliance with the 21-day safe harbor  
 4 provision set out in FRCP 11(c)(2).

5 On March 23, 2021 counsel for the King County Defendants sent a proposed  
 6 stipulated motion and order to remand for the other parties' review. Plaintiff's  
 7 counsel reviewed the documents proposed by the King County Defendants' counsel,  
 8 Amy Montgomery. Although, Plaintiff's counsel agreed that the case should  
 9 ultimately be remanded, and that as a general matter, stipulations are a preferred  
 10 method of disposing certain motions, the proposed court filings were unacceptable  
 11 as written. The proposed stipulation was inaccurate, and misrepresented both facts  
 12 and law to the District Court. Plaintiff's Counsel had intended to respond to Attorney  
 13 Montgomery, but was delayed, and the King County Defendants' counsel filed their  
 14 Motion to Remand before Plaintiff was able to respond.

15 The factual and legal issues contained in Plaintiff's Response to the Motion to  
 16 Remand are substantially related to the factual and legal issues contained in  
 17 Plaintiffs' Motion for Sanctions; when taken together the Plaintiff's Response and her  
 18 Motion for Sanctions will provide the District Court will a full picture of the  
 19 Defendants' conduct, which should subject them to fees, costs, and/or sanctions as  
 20 determined by the District Court.

21           **III. ARGUMENT**  
 22

23 The local rules of District Court provide for both Relief from a Deadline LCR 7(j)  
 24 and for Cross Motions LCR 7(k). In this case, the application of these rules to the  
 25 present motions before the District Court should allow for the consolidation of the  
 26 two motions to be heard at the same time (i.e. the latter of the two motions) on

1 Friday, April 30, 2021. Consistent with LCR 7(j), Plaintiff has not relied upon the  
2 granting of this motion to respond to the King County Defendants' Motion for  
3 Remand, the filing of that Response is expected to be timely. Consistent with LCR  
4 7(k), Plaintiff is filing her Motion for Sanction in accordance with the local rules, even  
5 though the hearing date will be different than that of the King County Defendants'  
6 Motion for Remand. Because of the overlapping factual and legal issues presented  
7 in both Motions, it would be an efficient and just use of the District Court's resources  
8 to hear both Motions at the same time.

9  
10 **IV. CONCLUSION**

11 For the foregoing reasons, the Plaintiff respectfully requests that the District  
12 Court grant Plaintiff's Motion to provide relief from the District Court's deadlines and  
13 consolidate the hearings of the King County Defendants' Motion for Remand and  
14 Plaintiff's Motion for Sanctions.

15 A Proposed Order is enclosed with this Motion.  
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3 Respectfully submitted, this April 8, 2021

4 **POSSINGER LAW GROUP, PLLC**

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6

7 /s/ Jeffrey Possinger

8 Jeffrey Possinger, WSBA #30854  
9 Attorney for Plaintiff  
10 20250 144th Avenue, Suite 205  
11 Woodinville, WA 98072  
12 (t) 206-512-8030  
13 (f) 206-569-4792  
14 jeffrey.possinger@possingerlaw.com

## CERTIFICATE OF SERVICE

I certify that on the date shown below a copy of this Response was sent as stated below.

<p>Amy E. Montgomery, WSBA #32068  Senior Deputy Prosecuting Attorney  King County Prosecuting Attorney  500 Fourth Avenue, Suite 900  Seattle, Washington 98104  <a href="mailto:Amy.montgomery@kingcounty.gov">Amy.montgomery@kingcounty.gov</a>  Attorney for King County Defendants</p>	<input checked="" type="checkbox"/> via eFiling/Email <input type="checkbox"/> via Messenger <input type="checkbox"/> via US Mail <input type="checkbox"/> via Fax
<p>Cheryl A. Zakrzewski, WSBA #15906  Chad R. Barnes, WSBA #30480  Office of the City Attorney  450 110<sup>th</sup> Avenue NE  P.O. Box 90012  Bellevue, Washington 98004  <a href="mailto:czakrzewski@bellevuewa.gov">czakrzewski@bellevuewa.gov</a>  <a href="mailto:cbarnes@bellevuewa.gov">cbarnes@bellevuewa.gov</a>  Attorneys for Defendant City of Bellevue</p>	<input checked="" type="checkbox"/> via eFiling/Email <input type="checkbox"/> via Messenger <input type="checkbox"/> via US Mail <input type="checkbox"/> via Fax
<p>Jennifer Stacy, WSBA #30754  Senior Deputy Prosecuting Attorney  King County Prosecuting Attorney  King County Courthouse  516 Third Avenue, Room W400  Seattle, Washington 98104  <a href="mailto:Jennifer.stacy@kingcounty.gov">Jennifer.stacy@kingcounty.gov</a>  Attorney for King County Hearing Examiner</p>	<input checked="" type="checkbox"/> via eFiling/Email <input type="checkbox"/> via Messenger <input type="checkbox"/> via US Mail <input type="checkbox"/> via Fax

DATED this 8th day of April , 2021.

s/ David Selka

David Selka

## Paralegal

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